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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/157697

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 19, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on June 12, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner's FS benefits effective June 1, 2014.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

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Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703  
By: Katherine May  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner submitted a renewal application to the agency on May 5, 2014. He has gross income of \$804.78/month from SSI. He has rent of \$236.75/month. His rent includes heat and air conditioning. He reported an electric expense of \$112/year.

3. On May 6, 2014, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would decrease to \$15/month effective June 1, 2014.

### **DISCUSSION**

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income, including earned and unearned income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$152 per month for a one-person household. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FSH, § 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FSH, § 4.6.7.

On April 28, 2014, a new policy regarding utility standards to be applied as deductions in determining FS allotments became effective. Households that do not receive WHEAP payments will receive a utility standard based on utility obligations incurred by the household at the current residence. Persons who are obligated to pay two or more of any non-heat qualifying utility expenses (including phone, water, sewer, electric, cooking fuel or trash) will receive a limited utility allowance of \$313/month. Persons who have just an electric utility credit receive an electric utility credit of \$153. See DHS Ops-Memo 14-16 (April 28, 2014).

The Petitioner does not dispute the income budgeted by the agency. He does not dispute that his rent includes heat and air conditioning. He noted that he can pay \$231/month if he doesn't want air conditioning. He concedes that he pays \$112/year in electric expense. He testified that he also have a phone bill of \$90/month. This was not previously reported to the agency.

The agency properly determined that the Petitioner was allowed an electric utility deduction of \$153 based on the information available at the time it processed the application. The Petitioner was advised that he must submit verification of phone bill expense and the agency will apply the limited utility allowance of \$313 upon verification. This will likely increase his FS benefit. He was advised he would receive a new Notice of Decision once the new utility standard is processed.

### **CONCLUSIONS OF LAW**

The agency properly determined the Petitioner's FS benefit based on the information available.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

## **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 11th day of July, 2014

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on July 11, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability